as ''medical officers'' may make determinations on care ordered or furnished by their peers but not on care ordered or furnished by licensed doctors of medicine or osteopathy.

(b) *Peer review by health care practitioners other than physicians.* Health care practitioners other than physicians may review services furnished by other practitioners in the same professional field.

(c) *DRG validation review.* Decisions about procedural and diagnostic information must be made by physicians. Technical coding issues must be reviewed by individuals with training and experience in ICD–9–CM coding.

(d) *Persons excluded from review.* (1) A person may not review health care services or make initial denial determinations or changes as a result of DRG validations if he or she, or a member of his or her family—

(i) Participated in developing or executing the beneficiary's treatment plan;

(ii) Is a member of the beneficiary's family; or

(iii) Is a governing body member, officer, partner, 5 percent or more owner, or managing employee in the health care facility where the services were or are to be furnished.

(2) A member of a reviewer's family is a spouse (other than a spouse who is legally separated under a decree of divorce or separate maintenance), child (including a legally adopted child), grandchild, parent, or grandparent.

[50 FR 15330, Apr. 17, 1985, as amended at 77 FR 68561, Nov. 15, 2012]

§476.100 Use of norms and criteria.

(a) *Use of norms.* As specified in its contract, a QIO must use national, or where appropriate, regional norms in conducting review to achieve QIO contract objectives. However, with regard to determining the number of procedures selected for preadmission review, a QIO must use national admission norms.

(b) *Use of criteria.* In assessing the need for and appropriateness of an inpatient health care facility stay, a QIO must apply criteria to determine—

(1) The necessity for facility admission and continued stay (in cases of day outliers in hospitals under prospective payment);

(2) The necessity for surgery and other invasive diagnostic and therapeutic procedures; or

(3) The appropriateness of providing services at a particular health care facility or at a particular level of care. The QIO must determine whether the beneficiary requires the level of care received or whether a lower and less costly level of care would be equally effective.

(c) *Establishment of criteria and standards.* For the conduct of review a QIO must—

(1) Establish written criteria based upon typical patterns of practice in the QIO area, or use national criteria where appropriate; and

(2) Establish written criteria and standards to be used in conducting quality review studies.

(d) *Variant criteria and standards.* A QIO may establish specific criteria and standards to be applied to certain locations and facilities in the QIO area if the QIO determines that—

(1) The patterns of practice in those locations and facilities are substantially different from patterns in the remainder of the QIO area; and

(2) There is a reasonable basis for the difference which makes the variation appropriate.

§476.102 Involvement of health care practitioners other than physicians.

(a) *Basic requirement.* Except as provided in paragraph (b) of this section, a QIO must meet the following requirements:

(1) Consult with the peers of the practitioners who furnish the services under review if the QIO reviews care and services delivered by health care practitioners other than physicians.

(2) Assure that in determinations regarding medical necessity of services or the quality of the services they furnish, these practitioners are involved in—

(i) Developing QIO criteria and standards;

(ii) Selecting norms to be used; and

(iii) Developing review mechanisms for care furnished by their peers.

(3) Ensure that an initial denial determination or a change as a result of

DRG validation of services provided by a health care practitioner other than a physician is made by a physician only after consultation with a peer of that practitioner. Initial denial determinations and changes as a result of DRG validations must be made only by a physician or dentist.

(b) *Exception.* The requirements of paragraph (a) of this section do not apply if—

(1) The QIO has been unable to obtain a roster of peer practitioners available to perform review; or

(2) The practitioners are precluded from performing review because they participated in the treatment of the patient, the patient is a relative, or the practitioners have a financial interest in the health care facility as described in § 466.98(d).

(c) *Peer involvement in quality review studies.* Practitioners must be involved in the design of quality review studies, development of criteria, and actual conduct of studies involving their peers.

(d) *Consultation with practitioners other than physicians.* To the extent practicable, a QIO must consult with nurses and other professional health care practitioners (other than physicians defined in 1861(r) (1) and (2) of the Act) and with representatives of institutional and noninstitutional providers and suppliers with respect to the QIO's responsibility for review.

[50 FR 15330, Apr. 17, 1985; 50 FR 41886, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

§ 476.104 Coordination of activities.

In order to achieve efficient and economical review, a QIO must coordinate its activities (including information exchanges) with the activities of—

(a) Medicare administrative contractors, fiscal intermediaries, and carriers.

(b) Other QIOs; and

(c) Other public or private review organizations as may be appropriate.

[50 FR 15330, Apr. 17, 1985, as amended at 77 FR 68561, Nov. 15, 2012]

§ 476.110 Use of immediate advocacy to resolve oral beneficiary complaints.

(a) *Immediate advocacy.* A QIO may offer the option of resolving an oral complaint through the use of immediate advocacy if:

(1) The complaint is received not later than 6 months from the date on which the care giving rise to the complaint occurred.

(2) After initial screening of the complaint, the QIO makes a preliminary determination that—

(i) The complaint is unrelated to the clinical quality of health care itself but relates to items or services that accompany or are incidental to the medical care and are provided by a practitioner and/or provider; or

(ii) The complaint, while related to the clinical quality of health care received by the beneficiary, does not rise to the level of being a gross and flagrant, substantial, or significant quality of care concern.

(3) The beneficiary agrees to the disclosure of his or her name to the involved provider and/or practitioner.

(4) All parties orally consent to the use of immediate advocacy.

(5) All parties agree to the limitations on redisclosure set forth in § 480.107 of this subchapter.

(b) *Discontinuation of immediate advocacy.* The QIO or either party may discontinue participation in immediate advocacy at any time.

(1) The QIO must inform the parties that immediate advocacy will be discontinued; and

(2) The beneficiary must be informed of his or her right to submit a written complaint in accordance with the procedures in § 476.120.

(c) *Confidentiality requirements.* All communications, written and oral, exchanged during the immediate advocacy process must not be redisclosed without the written consent of all parties.

(d) *Abandoned complaints.* If any party fails to participate or otherwise comply with the requirements of the immediate advocacy process, the QIO may determine that the complaint has been abandoned and—

(1) Inform the parties that immediate advocacy will be discontinued; and

(2) Inform the Medicare beneficiary of his or her right to submit a written complaint in accordance with the procedures in § 476.120.

[77 FR 68561, Nov. 15, 2012]